

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Customer Number: 46320
: :
Michael AU, et al. : Confirmation Number: 3098
: :
Application No.: 10/751,742 : Group Art Unit: 3625
: :
Filed: January 5, 2004 : Examiner: J. Dunham
: :
For: SUPPLIER HUB WITH HOSTED SUPPLIER STORES

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following remarks are submitted in response to the Notification of Non-Compliant Appeal Brief dated June 11, 2008 (hereinafter the First Notice).

REMARKS

On page 2 of the First Notice, the following was stated:

Regarding item 4, Appellant has failed to identify for each separately argued dependent claim (claims 2, 3, and 6) the acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings by reference characters.

For ease of reference, 37 C.F.R. § 41.37(c)(1)(v), which describes the requirements for the Summary of Claimed Subject Matter section of the Appeal Brief, is reproduced below:

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

This subsection includes two sentences, and notably, the second sentence (i.e., starting "[f]or each independent claim ...") refers to claims that include "means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph." However, none of the claims (either independent or dependent) argued separately in the Argument section of the Appeal Brief include claim language described in the sixth paragraph of 35 U.S.C. § 112. Thus, only the first sentence (i.e., the underlined sentence) of 37 C.F.R. § 41.37(c)(1)(v) applies to the present Appeal Brief, and the first sentence only applies to independent claims. This is notable since the reference to each dependent claim argued separately (i.e., claims 2, 3, and 6) in the above-reproduced passage from the First Notice is irrelevant since the Appeal Brief does not contain any dependent claims, which include claim language described in the sixth paragraph of 35 U.S.C. § 112. Therefore, the assertion that the Appeal Brief filed February 6, 2008, is defective is without merit.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: June 29, 2008

Respectfully submitted,

/Scott D. Paul/

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